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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/608,818	06/30/2000	Giann H. Chen	81326D-W	2410
7590		11/24/2004	EXAMINER	
Lawrence P Kessler		TSOY, ELENA		
NexPress Solutions LLC		ART UNIT		
1447 St Paul Street		PAPER NUMBER		
Rochester, NY 14653-7001		1762		

DATE MAILED: 11/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/608,818

Applicant(s)

CHEN ET AL.

Examiner

Elena Tsoy

Art Unit

1762

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 28 October 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 1-5, 7-22.

Claim(s) withdrawn from consideration: _____.

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

Advisory Action

1. The amendment filed on October 28, 2004 under 37 CFR 1.116 in reply to the final rejection has been entered and considered but is not deemed to place the application in condition for allowance for the reasons of record as set forth in Final Office Action mailed on September 13, 2004. Claim 6 has been cancelled. Claims 1-5, 7-22 are pending in the application.

Response to Arguments

2. Applicants' arguments filed October 28, 2004 have been fully considered but they are not persuasive.

Applicants argue that fluoroelastomers such as that of combination of Hartley et al Lentz and Schlueter, Jr. et al, and fluorocarbon thermoplastic random copolymer as claimed are distinctly different materials.

The Examiner respectfully disagrees with this argument. First of all, a fluoropolymer of Hartley et al (no matter how it is called) is substantially identical to that of claimed invention because both fluoropolymers contain the same components such as subunits of $-(CH_2CF_2)_x-$, $-(CF_2CF(CF_3))_y-$, $-(CF_2CF_2)_z-$ in the same amount, namely x, y, z are in the claimed range, as acknowledged by the Applicant (See Appeal Brief, page 5, paragraph 3).

As was discussed above, although a fluoropolymer such as Viton B of Hartley et al is called fluoroelastomer, whereas claimed fluoropolymer, which is substantially identical in structure and composition to that of Hartley et al, is called a fluorocarbon thermoplastic random copolymer, they are **not patentably distinct**.

Conclusion

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elena Tsoy whose telephone number is (703) 605-1171. The examiner can normally be reached on 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Shrive Beck can be reached on (703) 308-2333. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ELENA TSOY
PRIMARY EXAMINER

Elena Tsoy
Primary Examiner
Art Unit 1762



November 23, 2004